

ENTERED

December 21, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

**ESTATE OF HECTOR SALAS, JR.,
HECTOR SALAS, SR., ANDREA SILVA
and CYNTHIA MONTIEL,**

Plaintiffs,

VS.

**THE CITY OF GALENA PARK,
CYNTHIA JIMENEZ, JAMES KNOX
and ADRIAN HERRERA,**

Defendants.

შედეგები

Civil Case No. 4:19-CV-04479

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the November 22, 2023 Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Bray. (Dkt. No. 68). Judge Bray made findings and conclusions and recommended that Defendant Jimenez’s Motion to Dismiss Plaintiffs’ Amended Complaint, (Dkt. No. 65), be granted. (Dkt. No. 68).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On December 6, 2023, Plaintiff filed objections. (Dkt. No. 69). On December 20, 2023, Defendant filed a response to Plaintiff’s objections. (Dkt. No. 70). Plaintiff disagrees with Judge Bray’s decision but does not raise any factual or legal issues warranting reversal. Moreover, Plaintiff has raised issues in the Objections to the M&R that were not briefed before Judge Bray. Those arguments are waived. *FireFighters’ Ret. Sys. v. EisnerAmper, L.L.P.*, 898 F.3d 553, 559 (5th Cir. 2018) (stating that an argument raised for the first time in objections is forfeited).


In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Judge Bray’s M&R (Dkt. No. 68) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Defendant’s Motion to Dismiss, (Dkt. No. 65), is **GRANTED**.

It is SO ORDERED.

Signed on December 21, 2023.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE